

Article 15 – Special Exceptions

25.15.01 – Special Exceptions

a. *Generally*

1. Application Procedure – Applications for Special Exceptions must be filed in accordance with 25.07.01.c and are reviewed in accordance with the provisions of 25.07.07.
2. Findings - The Board of Appeals must not grant any petition for a special exception unless it finds from a preponderance of the evidence of record that:
 - (a) The proposed use does not violate or adversely affect the Plan, this Chapter or any other applicable law; and
 - (b) The proposed use at the location selected will not:
 - (i) Adversely affect the health and safety of residents or workers in the area;
 - (ii) Overburden existing and programmed public facilities as provided in Article ~~24~~20 of this Chapter and as provided in the adopted Adequate Pubic Facilities Standards Manual;
 - ~~(iii) Overburden existing and programmed storm drainage stormwater management and other public improvements;~~
 - (iii) Be detrimental to the use or development of adjacent properties or the neighborhood;
 - (iv) Change the character of the neighborhood in which the use is proposed considering services currently provided, population density, character, and number of similar uses; and
 - (v) Constitute a nuisance because of noise, traffic, number of people, or type of physical activity; and
 - (c) The proposed use complies with all applicable requirements of this Chapter, including, but not limited to, the special requirements contained in Section 25.15.02 and the general purposes of this Chapter contained in Section 25.01.02.

3. Imposition of Terms, Conditions, and Restrictions - The Board of Appeals may impose terms, conditions, and restrictions upon the grant of any special exception that are reasonably necessary to protect adjacent properties, the neighborhood, and the residents and workers in the vicinity. Compliance with all such terms, conditions, and restrictions are deemed to be continuing conditions imposed upon the grant of the special exception.
4. ~~Failure to Comply with Terms, Conditions, and Restrictions~~ :
 - (a) ~~If the Chief of Planning has reason to believe that any of the terms, conditions, or restrictions upon which a special exception was granted have not been complied with, the Chief of Planning may take the following actions:~~
 - (i) ~~Provide written notice by first class mail to the owner of the special exception use, the owner of the property on which the use is located, the owners of all properties within a radius of at least 500 feet of the lot boundaries of the use or larger area if determined to be necessary by the Chief of Planning, and all parties of record in the proceedings that resulted in the approval of the use, that a public hearing will be held to determine if a violation has occurred; and~~
 - a. ~~A sign shall be posed~~ Post a sign on the site as provided in Article 5.
 - b. ~~If following the public hearing the Board determines, based on the public record, that a violation has occurred, the Board is authorized to suspend or revoke the grant of such special exception or take other action it deems necessary to assure compliance with the terms, conditions, and restrictions of the special exception.~~
 - b. *Modifications* – The Board may amend or modify the terms or conditions of a special exception on request of the special exception holder.
 1. *Minor Modification*
 - (a) Chief of Planning Approval - If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character, or intensity of the use and without substantially changing the effect of traffic from the use or on the immediate neighborhood, the Chief of Planning may modify the term or condition without convening a public hearing to consider the proposed change.
 - (b) Decision - A copy of the Chief of Planning's decision modifying a special exception must be transmitted to the holder of the special exception, the

Planning Commission, the Board of Appeals, and all parties entitled to notice in accordance with Article 5.

- (c) Opportunity for a Hearing on the Decision - The resolution must state that any party may, within 15 days after the date of the written notification of the Chief of Planning's decision, request a public hearing on the Chief of Planning's action. The request must be in writing, and must specify the reasons for the request and the nature of the objections or relief desired. If a request for a hearing is received, the Chief of Planning must suspend ~~its~~ his/her decision and conduct a public hearing to reconsider the proposed change or modification.

2. *Major Modification*

- (a) Board of Appeals' Approval – If, in the opinion of the Chief of Planning, the proposed modification substantially alters the nature, character, or intensity of use or the conditions of the original grant, the Board must convene a public hearing to consider the proposed modification. Except as otherwise provided in this Section, such request for modification is subject to the requirements set forth in Article 5, and the Board must receive and process petitions for modification of a special exception in accordance with the provisions of that Article.
- (b) Public Hearing - The public hearing must be limited to consideration of the following:
 - (i) Proposed modifications noted in the Board's notice of public hearing; and
 - (ii) Those aspects of the special exception use that are directly related to, or affected by the proposed modification; ~~and~~
- (c) Additional Considerations for Certain Expansions - Notwithstanding the provisions of subsection 25.15.01.b.2.(b) above, the Board shall consider other aspects of the special exception if the modification proposes an expansion of the total floor area of all structures or buildings by more than 25%, or 7,500 square feet, whichever is less.
- (d) Decision - After the close of the record of the proceedings, the Board must issue a decision in accordance with the requirements of Article 5.
- (e) Conditions - As a condition of any modification, the Board may require the underlying special exception to be brought into compliance with the general landscape, streetscape, pedestrian circulation, noise, and screening requirements of Article 17, if:

- (i) The proposed modification expands the total floor area of all structures or buildings by more than 25%, or 7,500 square feet, whichever is less; or
 - (ii) The expansion, when considered in combination with the underlying special exception, changes the nature or character of the special exception to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected if the requirements of Article 17 are not met.
3. *Substantial Changes Requiring a New Application* – An application for a new special exception is required when substantial modifications meeting the criteria of Section 25.05.07.d are met.

25.15.02 – Additional Requirements for Certain Special Exceptions

a. Accessory Apartments

1. General Requirements – Accessory apartments must:

- (a) Be contained in the same building as a single unit detached dwelling; and
- (b) Contain facilities for:
 - (i) Cooking;
 - (ii) Eating;
 - (iii) Sanitation; and
 - (iv) Sleeping.

2. Specific Requirements

- (a) *Limitation to One (1)* – Only one (1) accessory apartment may be created in, or attached to an existing single unit detached dwelling.
- (b) *Lot Requirements* - Accessory apartments may only be created on a lot:
 - (i) Which is occupied by a family of related persons;
 - (ii) Which contains no other rental residential use;
 - (iii) Which does not contain rooms for rent or a boarding house; and

- (iv) Which does not contain a major home-based business enterprise.
- 3. *Ownership Requirements* – The owner of a lot on which an accessory apartment is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12-month period. The period of temporary absence may be increased by the Board at any time upon a finding that a hardship would otherwise result. Any request for an extension of the period of temporary absence made subsequent to the initial grant of the special exception must be made in compliance with the procedures for a minor modification of a condition of a special exception in 25.07.01.b.(1).
- 4. *Development Requirements*
 - (a) Both the main dwelling and the accessory apartment must comply with all current development standards, including off-street parking requirements.
 - (b) No variance may be granted to accommodate an accessory apartment.
- 5. *Design Requirements*
 - (b) Separate Entrance - Any separate entrance to the accessory apartment must be located so that the appearance of a single unit detached dwelling is preserved.
 - (c) External Modifications and Improvements - All external modifications and improvements to the single-unit detached dwelling in which the accessory apartment is to be created, or to which it is to be added, must be compatible with the existing dwelling and surrounding properties.
 - (d) *Street Address* – The accessory apartment must have the same street address (house number) as the main dwelling.
 - (e) *Occupancy Limitation* – The accessory apartment must house no more than three (3) persons and must be subordinate to the main dwelling.
- 6. *Additional Findings for Special Exception Approval* – The Board must make the following additional findings:
 - (a) That such use will not constitute a nuisance because of traffic or number of people, and will cause no objectionable noise, odors, or physical activity; and
 - (b) That such use will not adversely impact the parking or traffic situation in the neighborhood.

7. *Additional Restrictions for Special Exceptions* – The following restrictions on special exceptions for accessory apartments apply:

- (a) The owner must comply with the certification requirements of Chapter 5, Article XII of the Code;
- (b) The special exception is granted solely to the owner/applicant and does not run with the land;
- (c) The special exception automatically expires when either of the following occurs:
 - (i) The owner/applicant sells the property on which the accessory apartment is located; or
 - (ii) The owner/applicant no longer occupies any portion of the ~~one-family~~ single-unit dwelling in which the accessory apartment is located; and
- (d) The accessory apartment must be removed, dismantled, or otherwise rendered inoperative within 30 days of the expiration of the special exception.

8. *Additional Conditions* – The Board may impose additional conditions deemed necessary to protect and limit any adverse impact on adjacent properties and the neighborhood, including, but not limited to one (1) or more of the following:

- (a) Restricting the number of people that may occupy the accessory apartment;
- (b) Prohibiting rental of the accessory apartment;
- (c) Limiting the total number of motor vehicles that may be parked on the lot; and/or
- (d) Limiting the total number of vehicles that may be used and parked on-street by the occupants of both the accessory apartment and the main dwelling.

b. *Adult ~~Entertainment~~ Oriented Establishments*

- 1. *Scope* – This subsection applies to adult ~~entertainment oriented~~ establishments that are permitted as special exceptions in the Heavy Industrial ("I-H") Zone.

2. *Additional Findings Required for Adult ~~Entertainment~~ Oriented Establishments* – The Board must make the following additional findings:
 - (a) That the owners and operators of any adult ~~entertainment~~ oriented establishment have devised and will implement a procedure sufficient to ensure that no person under the age of 18 will be allowed access to the establishment; and
 - (b) That neither the owner nor the operator of such a use has ever been convicted of violating any law, ordinance, or regulation dealing with obscenity or restricting the access of minors to such material, activities, or establishments.
3. *Additional Development Standards – Adult oriented establishments are subject to the following additional development standards:*
 - (a) No adult ~~entertainment~~ oriented establishment is allowed within a structure that is located within 1,000 feet of the nearest property line of any residence, school, church, library, public facility, or public building;
 - (b) Any employee of an adult ~~entertainment~~ oriented establishment must be at least 18 years of age and must never have been convicted of violating any law, ordinance, or regulation concerning obscenity or restricting the access of minors to material, activities, or establishments;
 - (c) No person under the age 18 is permitted access to any adult ~~entertainment~~ oriented establishment; and
 - (d) No sexually oriented material or sexually oriented activities are allowed to be visible or audible from outside the establishment;.
- c. *Automobile Filling Station, Class I; Automobile Filling Station, Class II; Restaurant with Drive-Through and Mechanical Carwash*
 1. *Scope* – The provisions of this subsection apply to automobile filling stations, class I; automobile filling stations, class II; restaurants with a drive-through; and mechanical carwashes.
 2. *Additional findings required for automobile filling stations, class I; automobile filling stations, class II; restaurants with a drive-through; and mechanical carwashes* - The Board must make the following additional findings:

- (a) That the use at the location proposed will not result in a multiplicity and saturation of similar uses in the same general neighborhood of the proposed use; and
- (b) That all the additional development and use requirements contained in subsection 25.15.02.c.3.(a)(i)-(v) of this Section will be satisfied.

3. *Additional Development Standards*

- (a) All uses enumerated in this subsection, 25.15.02.c must be located in such a manner that the proposed use:
 - (i) Will not preempt frontage on a major highway in a manner that substantially reduces the visibility and accessibility of an interior commercial area zoned or proposed for commercial use which is oriented to the same highway;
 - (ii) Will not impair the movement of through traffic along an adjoining thoroughfare through congestion and reduction of street capacities or cause the standing or backup of vehicles in the public right-of-way while awaiting service on the property in question;
 - (iii) Will not cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity;
 - (iv) Will not result in a fragmentation of the development pattern, thereby creating unnecessary additional points of vehicular conflict with an adjoining highway and adversely affecting the orderly development of the surrounding neighborhood; and
 - (v) Will not preempt the use of any parking spaces or on-site driveways or cause vehicles waiting for service to back up into adjacent service drives or public roads by vehicles.
- (b) All restaurants with drive-through service are required to occupy a record lot that:
 - (i) Is at least 400 feet away from any school site or parcel of ~~ground land~~ zoned or planned for ~~residential low density~~ single residential unit development or medium residential density use. (This setback does not apply to residential or educational properties recommended for a nonresidential or noneducational use ~~on~~ in the Plan.);

- (ii) Has a minimum of 200 feet of lot frontage on a business district road or major highway at the front lot line, and must preempt the utilization of such 200 feet of frontage by any other use; and
- (iii) Has a minimum lot size of 40,000 square feet, and must preempt the utilization of such lot area by any other use.

4. *Additional Parking, Loading, and Access Requirements*

- (a) When a use enumerated in this subsection, 25.15.02.c.1., above occupies a corner lot, the ingress and egress driveways must be located at least 75 feet from the point of intersection of the street line and the corner arc.
- (b) Open storage of motor vehicles or trailers, except those temporarily awaiting service during the business hours of the establishment, is prohibited.
- (c) Vehicular access to any residential street is prohibited.

5. *Additional Screening and Landscaping Requirements* – Lighting facilities must be arranged or screened so that they neither disturb the occupants of nearby residential properties nor interfere with the movement of traffic.

6. *Special Development and Use Requirements for Automobile Filling Station, Class I and Class II*

- (a) When located in the C Zone, automobile filling stations, class I must:
 - (i) Be an integral part of a neighborhood shopping center;
 - (ii) Be contained in a structure limited in size to two (2) single car service bays plus rest rooms and office or supply storage space;
 - (iii) Be limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries, and automobile accessories directly to motor vehicles and to washing, polishing, and servicing motor vehicles only to the extent of installation of the enumerated items;
 - (iv) Not rent or sell motor vehicles, trailers, or general replacement parts;
 - (v) Not overhaul, tune up, or repair motors or bodies, or provide break relining or wheel alignment service, upholstery work, auto glass work, painting, welding, tire recapping, or auto dismantling; and

- (vi) Extinguish all floodlights at the close of business or 11:00 p.m., whichever is earlier.
- (b) Gasoline pumps or other service appliances must be located on the lot at least 20 feet behind the building line, and all service, storage, or similar activities in connection with such use must be conducted entirely within the building.
- (c) The following additional parking, loading, and access requirements apply:
 - (i) Parking of vehicles being serviced or stored for customers on streets, alleys, public sidewalks, or public park strips is prohibited; and
 - (ii) When such use occupies a corner lot, the ingress and egress driveways must be located at least 75 feet from the point of intersection of the street line and the corner arc, and these driveways must not exceed 25 feet in width.
- (d) When located in a Mixed-Use Zone, the design of the building and site layout should reflect the development standards set forth in Article 13, consistent with the particular needs for an automobile filling station.

d. *Bed-and-Breakfast Lodging*

1. *Scope* – This subsection applies to bed-and breakfast lodgings in residential zones.
2. *Additional Findings Required* – The Board must make the following additional findings:
 - (a) The owner of the dwelling unit in which the bed-and-breakfast lodging is located must live in the dwelling, and the bed-and-breakfast use must be subordinate to the residential use;
 - (b) The minimum lot area must be at least 9,000 square feet, but no less than the minimum lot area required in the zone; and
 - (c) The proposed use must have adequate and safe access from a public street.
3. *Development Standards*
 - (a) No more than three (3) guest rooms are allowed on a lot or parcel of less than two (2) acres.

- (b) Parking must be located only in the side or rear yard. The Board of Appeals may allow on-street parking in conjunction with the use if the Board finds that such parking will not have an adverse impact on the surrounding neighborhood.
- (c) The owner must register the use with the Department of Community Planning and Development Services.
- (d) The owner of the dwelling must maintain a record of all transient visitors who stay in the bed-and-breakfast lodging. If requested, the owner must provide a copy of this record to the City's Department of Community Planning and Development Services.

e. *Charitable and Philanthropic Institutions*

- 1. *Scope* – This Section applies to charitable and philanthropic institutions.
- 2. *Special Development and Use Standards ~~Requirements in Residential Zones~~* – If the use is to be located in a residential zone, it must have:
 - (a) A lot area of at least 25,000 square feet;
 - (b) A lot frontage of at least 150 feet; and
 - (c) Building setbacks of at least 35 feet in the front yard, side yards equal to at least two (2) times the height of the tallest institutional building located on the lot which is proximate to the side yard and a rear yard of at least 40 feet.

f. *Child Care Centers*

- 1. *Scope* – This subsection applies to child care centers in all zones where a special exception is required.
- 2. *Additional Findings ~~Required~~ and Conditions*
 - (a) The Board must make the following additional findings:
 - (i) ~~That~~ The site provides ample outdoor play space, free from hazard and appropriately equipped for the age and number of children being cared for;
 - (ii) The use satisfies all applicable state and county requirements; and

(iii) If a child care center is located within 1,000 feet of another center, the cumulative effect of the centers will not have an adverse impact on the neighborhood due to noise, traffic, or other similar facts.

(b) Adequate fencing and screen planting may be required, if deemed necessary, to protect adjacent properties against intrusion.

3. *Special Development and Use Requirements – Additional Development Standards*

(a) Child care centers must meet the following lot size standards, based on the number of children being cared for at any one (1) time:

Number of Children	Minimum Lot Area
9 to 12	7,000 sq. ft.
13 to 25	10,000 sq. ft.
26 to 40	20,000 sq. ft.
More than 40	30,000 sq. ft. plus 500 square feet for each child over 40 children.

(b) If any child care center cares for more than 100 children at any one (1) time, and if the special exception approval limits the use of the property so that no more than 30% of the children are involved in outside activities at any one (1) time, then the child care center must have a minimum lot area of 30,000 square feet plus 400 square feet for each child in excess of 40.

~~g. *Cosmetologist as a Major Home-Based Business Enterprise*~~

~~1. *Scope* — This subsection applies only to a cosmetologist operating as a Major Home-Based Business Enterprise with more than 20 customer visits per week.~~

~~2. *Special Development and Use Requirements* — The following restrictions and requirements apply:~~

~~(a) The use must comply with the requirements of Section 25.09.07.a and c.~~

~~(b) One (1) off-street parking space must be provided in addition to the parking required for the residential use. The Board may waive this requirement if it finds that on-street parking will not have an adverse impact on neighboring residential uses.~~

~~(c) The owner/occupant must obtain a valid license from the Maryland State Department of Labor, Licensing and Regulation to operate as a cosmetologist.~~

- ~~(d) The Board may regulate the hours of operation.~~
- ~~(e) The special exception automatically expires when any of the following occurs:~~
 - ~~(i) The owner/ applicant sells the property on which the use is located;~~
 - ~~(ii) The use is abandoned for a period of more than six (6) months; or~~
 - ~~(iii) The owner/applicant's license from the State Department of Labor, Licensing and Regulation to operate as a cosmetologist has been revoked or has expired, or has been suspended for more than 90 days.~~

g. *Educational Institutions, Private*

1. *Scope* – This subsection applies to private educational institutions, including but not limited to business, art, music, dance, trade, and job training in all zones where a special exception is required.
2. *Special Development and Use Requirements* – The following special development and use requirements apply:
 - (a) Institutions which offer any general academic instruction at levels above the eighth grade must have:
 - (i) A lot area of at least one (1) acre plus 875 square feet for each student in excess of 50;
 - (ii) A lot frontage of at least 300 feet; and
 - (iii) Building setbacks of at least 50 feet in the front yard, side yards equal to at least two (2) times the height of the tallest institutional building located on the lot which is proximate to the side yard and a rear yard of at least 50 feet.
 - (b) Kindergartens and nursery schools must have:
 - (i) A lot area of at least 10,000 square feet for up to 30 students, plus 30,000 square feet for each student over 30;
 - (ii) A lot frontage of at least 100 feet; and
 - (iii) Building setbacks of at least 35 feet in the front yard, side yards equal to at least the height of the tallest institutional building located on the

lot which is proximate to the side yard and a rear yard of at least 40 feet.

(c) All other private educational institutions must comply with the following:

(i) Where the maximum attendance at any one (1) time does not exceed 40 students, such institution must have:

A. A lot area of at least 10,000 square feet for up to 20 students, plus 500 square feet for each student over 20 students;

B. A lot frontage of at least 150 feet; and

C. Building setbacks of at least 35 feet in the front yard, side yards equal to at least the height of the tallest institutional building located on the lot which is proximate to the side yard, and a rear yard of at least 40 feet.

(ii) Where the maximum attendance at any one (1) time exceeds 40 students, such institution must have:

A. A lot area of at least one (1) acre plus 700 square feet for each student in excess of 60;

B. A lot frontage of at least 200 feet; and

C. Building setbacks of at least 50 feet in the front yard, side yards equal to at least two (2) times the height of the tallest institutional building located on the lot which is proximate to the side yard, and a rear yard of at least 50 feet.

3. *Additional Screening and Landscaping Requirement* – School buses must be garaged or be stored in an area to the rear of the enclosed main building enclosed by such adequate screening as may reasonably be required by the Board of Appeals.

h. *Home- Based Business Enterprise (Major)*

1. *General Provisions* – Major Home-Based Business Enterprises are subject to the applicable provisions of 25.09.07 which include, but are not limited to general provisions, inspections, and home-based business enterprise registry.

2. *Major Home-Based Business Enterprises* – Major home-based business enterprises are subject to the following provisions:

- (a) Special Exception Approval – All major home-based business enterprises are special exceptions subject to the applicable review provisions of Article 15 of this Chapter. ~~For major home-based business enterprises, the special exception is granted only to the applicant and is not transferable.~~
- (b) Application Procedures – As part of the special exception application, the applicant must provide all of information required to be provided for a minor home-based business enterprise as set forth in subsection 25.09.07.c.2 and 3, plus such additional information required for special exceptions.
- (c) Employees – A major home-based business enterprise must be conducted by an individual residing in the dwelling unit, and may employ no more than two (2) nonresident assistants or business associates who are required to be at the dwelling unit for any length of time during the 24-hour day. The arrival and departure of the nonresident assistant or associate are not included in the limitations or visits to the site.
- (d) Visits to the Site
 - (i) The maximum number of visits to and from the site, including deliveries, is limited to 20 visits per week unless a greater number is ~~will be~~ as set by the Board of Appeals.
 - (ii) Visits are prohibited between the hours of 10 pm and 7am, except in cases of medical emergency.
- (e) Sale and Production of Goods and Services – The following activities are permitted in a major home-based business enterprise:
 - (i) The sale of goods, excluding hazardous items;
 - (ii) The production of handmade products; and/or
 - (iii) Personal and professional services ~~including but not limited to tailoring, massage, cosmetology, tutoring, music lessons, and professional services which are provided on-site by a resident of the dwelling.~~
- (f) Display / Storage of Goods – Display or storage of goods will be as set forth by the Board of Appeals.
- (g) Equipment or Facilities – No equipment or facilities may be used other than what is reasonably related to the production of handmade products or

personal or professional services provided by the home-based business enterprise.

3. *Additional Restriction* – The special exception is granted solely to the owner / applicant and does not run with the land. The special exception expires when either of the following occurs:

- (a) The owner / applicant sells the property; or
- (b) The owner / applicant no longer occupies any portion of the dwelling in which the home-based business enterprise is located.

i. *Hospitals or Nursing Homes*

- ~~1. *Scope* – This subsection applies to hospitals and nursing homes.~~

- ~~2. *Special Development and Use Requirements* – The following special development and use requirements apply:~~

1. *Additional Development Standards for Hospitals* – Hospitals must have:

- (a) A net lot area of at least five (5) acres;
- (b) A lot frontage of at least 200 feet; and
- (c) Building setbacks of at least 50 feet in the front yard, side yards equal to at least three (3) times the height of the tallest building located on the lot which is proximate to the side yard, but not less than 75 feet, and a rear yard of at least 100 feet.

2. *Additional Development Standards for Nursing Homes* - Nursing homes must have 1,000 square feet of net lot area per bed.

j. *Housing for Senior Adults and Persons with Disabilities*

1. *Scope* – This subsection applies to housing for senior adults and persons with disabilities.
2. *Additional Required Findings* – The Board must make the additional finding that the site proposed for such use has adequate accessibility to, or provides on-site, public transportation, medical services, shopping areas, recreational, and other community services frequently used by residents of such use.

3. *Special Development and Use Requirements*

- (a) *Minimum Lot Size* - Development must be on a record lot of at least two (2) acres.
- (b) *Minimum Street Frontage* - The lot must have at least 100 feet of frontage on a public street.
- (c) *Setbacks* - All structures on the site must be set back at least as follows:
 - (i) Front yard: 50 feet; and
 - (ii) Side and rear yards: Twice the minimum required in the zone.
- (d) *Maximum Lot Coverage* - Notwithstanding the provisions of Section 25.10.05.a and 25.10.05.b, in the R-400 and R-200 Zones, the maximum lot coverage is limited to 30%; provided that the development of the facility does not exceed one (1) story and also does not exceed 20 feet in height, except as provided in subsection (e) below.
- (e) *Building Height* - Building height is normally limited to the height allowed in the zone. The Board may allow additional height up to 50 feet if additional setbacks are provided and the Board finds that the additional height will not have an adverse impact on the adjoining and confronting properties.

4. *Occupancy*

- (a) Occupancy of a dwelling unit is restricted to the following:
 - (i) A senior adult or person with disabilities, as defined in Section 25.03.02-;
 - (ii) The spouse of a senior or disabled resident, regardless of age or disability-;
 - (iii) The resident care-giver, if needed to assist a senior or disabled resident-;
 - (iv) In a development is designed primarily for persons with disabilities rather than senior adults, the parent, daughter, son, sister, or brother of a disabled resident, regardless of age or disability-; and
 - (v) Resident staff necessary for operation of the facility ~~are also allowed to live on site.~~

- (b) Age restrictions must comply with at least one (1) type of exemption for housing for older persons from the familial status requirements of the federal “Fair Housing Act,” Title VIII of the Civil Rights Act of 1968, and subsequent amendments.

~~k. *Junkyards and Building Materials Salvage Yards*~~

- ~~1. *Scope*—This subsection applies to junkyards and building materials salvage yards in all zones.~~

~~2. *Special Development and Use Requirements*~~

~~—(a) The use must have:~~

- ~~(i) A lot area of at least one (1) acre; and~~
- ~~(ii) A brick, stone, or other form of wall approved by the Board at least eight feet (8’) high enclosing all aspects of the use and which must be set back at least 25 feet from the front lot line.~~

- ~~(b) The area between the fence and the property line shall be landscaped in accordance with the provisions of the Landscape Manual.~~

~~l. *Major Home-Based Business Enterprise*~~

- ~~1. *Scope*—This subsection applies to major home based business enterprises permitted as special exceptions in the residential zones.~~

~~2. *Special Development Provision*—Major home based business enterprises must comply with Section 25.09.07.~~

~~m. *Mechanical Carwash*—Mechanical car washes are subject to the provisions of Section 25.15.02.c.~~

~~n. *Nursing Home*—See Section 25.15.02.i.~~

~~o. *Outdoor Motor Vehicle or Trailer Sales in the MXTD or MXCD Zones*~~

- ~~1. *Scope*—This subsection applies to outdoor motor vehicle or trailer sales in the MXTD and MXCD Zones.~~

~~2. *Special Development and Use Requirements*—The following special development and use restrictions apply:~~

- ~~(a) Repairs and dismantling is permitted only within a closed structure; and~~

~~(b) No dismantled, partly dismantled, or wrecked motor vehicles or trailers are allowed to be parked outside of an enclosed structure.~~

k. Life Care Facility

1. Scope - This subsection applies to life care facilities
2. Additional Required Findings - The Board must make the additional finding that the site proposed for such use has adequate accessibility to, or provides on-site, public transportation, medical services, shopping areas, recreational and other community services frequently used by residents of such use.
3. Special Development and Use Requirements
 - (a) Minimum Lot Area - Development must be on a record lot of at least five (5) acres;
 - (b) Frontage - The lot must have at least 100 feet of frontage on a public street;
 - (c) Setbacks - All structures on the site must be set back at least as follows:
 - (i) Front yard: 50 feet
 - (ii) Side and rear yards: Twice the minimum required in the zone or the height of the building, whichever is greater;
 - (d) Lot Coverage in R-400 and R-200 Zones - Notwithstanding the provisions of Section 25.10.05.a and 25.10.05.b, in the R-400 and R-200 Zones, the maximum lot coverage is limited to 30%.
 - (e) Building Height - Building height is normally limited to the height allowed in the zone. The Board may allow additional height up to 50 feet if additional setbacks are provided and the Board finds that the additional height will not have an adverse impact on the adjoining and confronting properties.
4. Occupancy
 - (a) Occupancy of a dwelling unit is restricted to the following:
 - (i) A senior adult or person with disabilities, as defined in Sec. 25.03.02;
 - (ii) The spouse of a senior or disabled resident, regardless of age or disability; and

(iii) The resident care-giver, if needed to assist a senior or disabled resident.

(b) Age restrictions must comply with at least one type of exemption for housing for older persons from the familial status requirements of the federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, and subsequent amendments.

(c) Resident staff necessary for operation of the facility are also allowed to live on site.

l. *Personal Living Quarters* – In addition to the required findings in Section 25.15.01, the Board must also find that adequate on-site parking is available so ~~the facility~~ the personal living quarters will not overburden the existing neighborhood.

m. *Pawnbroker* – No pawnbroker is permitted within a structure that is located:

1. Within 500 feet of the nearest property line of any residentially zoned property; or
2. Within 1,500 feet of another structure in which a pawnbroker is located.

n. *Public Utility Buildings and Structures*

- ~~1. Scope~~ This subsection applies to public utility buildings and structures.
- ~~2. Special Development and Use Requirements~~ – In all residential zones where authorized, ~~such use~~ all public utility buildings and structures, whenever practicable, must have the exterior appearance of a residential building together with such landscaping, screen planting, and fencing as may reasonable be required by the Board.

o. *Restaurants in I-L and I-H Zones*

- ~~1. Scope~~ This subsection applies to restaurants in the I-L and I-H Zones.
- ~~2. Special Development and Use Requirements~~ – The establishment of a restaurant in the I-L Zone:
 1. Must be ~~secondary~~ accessory to the main use of any lot;
 2. Must be located within the main building; and
 3. Must not occupy more than 25% of the gross floor area of the building.

t. ~~*Restaurant with Drive Through*~~—Drive through restaurants are subject to the provisions of Sec. 25.15.02.(c).

u. ~~*Ready-Mixed Concrete Plant*~~

~~4. *Scope*—This subsection applies to ready-mixed concrete plants.~~

~~5. *Special Development and Use Requirements*—Such use must occupy a record lot which:~~

~~a. Has a lot area of at least two (2) acres;~~

~~b. Is at least 400 feet away from any school site or parcel of ground zoned for residential use;~~

~~c. Has no front wall of any building or structure or any fence less than 25 feet from the front lot line; and~~

~~d. Has an open or unobstructed front yard except for the off-street parking of private automobiles.~~

p. *Swimming Pools, Nonaccessory*

~~1. *Scope*—This subsection applies to nonaccessory swimming pools.~~

1. *Special Development and Use Requirements* – The following special development and use requirements apply to nonaccessory swimming pools:

(a) The membership of any such pool operated on a membership basis must not exceed four (4) times the legal capacity of the pool, and a family membership must be computed at three and one-half (3.5) persons;

(b) Membership of any such pool must not exceed 2,800 persons; and

(c) The number of persons allowed on the lot on which the pool is located must not exceed the legal capacity of the pool.

2. *Additional Development Standards*

(a) *Minimum Lot Area* - The minimum lot size of any ~~such~~ nonaccessory swimming pool must be in accordance with the following table. Legal capacity must be calculated in accordance with the requirements of 25.03.03.c.10:

Legal Capacity of Pool (persons)	Minimum Lot Area (acres)
0 – 350	3
351 – 438	3.5
439 – 525	4
526 – 613	4.5
614 - 700	5

(b) Minimum Deck Size – The minimum deck size of a nonaccessory swimming pool must be calculated in accordance with the requirements of 25.03.03.c.11.

3. Distance from Property Line and Single-Unit Dwellings - Any such pool must be located no less than 75 feet from the nearest property line nor less than 125 feet from any existing single-unit detached or semi-detached dwelling, except that where the lot upon which such pool is located abuts a railroad right-of-way, publicly owned land (except streets) or land in a nonresidential zone, the pool may be constructed not less than 25 feet from such railroad right-of-way, publicly owned land, or land in a nonresidential zone.

q. *Taxicab Service*

- ~~1. Scope – This subsection applies to taxicab service.~~
- ~~2. Special Development and Use Requirements – The following special development and use requirements apply to taxicab services:~~
 - (a) All vehicles used in connection with such use must be parked entirely within the lot on which the use is operated; and
 - (b) Servicing of such vehicles, including but not limited to dispensing of gasoline and oil, is prohibited on the same lot unless auto repair is permitted in the zone in which the lot is located.

r. ~~Veterinarian~~ Veterinary Office and Animal Hospital

- ~~1. Scope – This subsection applies to veterinarian veterinary offices and animal hospitals.~~
- ~~2. Special Development and Use Requirements – The special development and use requirements for veterinary office and animal hospitals are as follows:~~
 - (a) Such use must have a lot area of at least one (1) acre; and

- (b) No structure for the housing of animals is permitted within 50 feet from any residential use.

s. *Wireless Communication Facility*

1. *Scope* – This subsection applies to wireless communication facilities mounted on free-standing antenna structures.
2. *Special Development and Use Requirements* – Wireless communication facilities must comply with the development standards contained in Section 25.09.08.
3. *Additional Findings Required* – The Board of Appeals must make those additional findings required in Section 25.09.08.

